

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
CONSUMERS ENERGY COMPANY	)	
for authority to reconcile gas revenue	)	
pursuant to Pilot Revenue Decoupling	)	Case No. U-16860
Mechanism and for other relief	)	
_____	)	

**NOTICE OF PROPOSAL FOR DECISION**

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on November 7, 2012.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 4300 West Saginaw, Lansing, Michigan 48917, and served on all other parties of record on or before November 28, 2012, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before December 12, 2012. The Commission has selected this case for participation in its Paperless Electronic Filings Program. No paper documents will be required to be filed in this case.

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

STATE OFFICE OF ADMINISTRATIVE  
HEARINGS AND RULES  
For the Michigan Public Service Commission

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Theresa A. Sheets  
Administrative Law Judge

November 7, 2012  
Lansing, Michigan

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**PROPOSAL FOR DECISION**

**I.**

**BACKGROUND**

In an Order dated May 17, 2010, in Case No. U-15986 (U-15986 Order), the Commission adopted a pilot revenue decoupling mechanism (PRDM) applicable to the retail natural gas utility business of Consumers Energy Company (Consumers or the Company).<sup>1</sup> The Commission stated that the PRDM would be effective June 1, 2010, and that the Company should file annual reconciliations of the PRDM no later than September 1 of each year. Case No. U-16418 was the next general rate case proceeding for Consumers, following Case No. U-15986. In an order issued on August 11, 2011, in Case No. U-16418, the Commission authorized the continuation of the existing PRMD.<sup>2</sup> This case, U-16860, is the first annual reconciliation of the gas PRDM, covering the period of June 1, 2010, through May 31, 2011.

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<sup>1</sup> Pursuant to MCL 460.1089(6).

<sup>2</sup> Consumers Energy General Rate Case U-16855, which settled, continued the PRDM with specific provisions for calculation of the PRDM.

## II.

### **HISTORY OF PROCEEDINGS**

On September 1, 2011, pursuant to 2008 PA 295; MCL 460.1089(6), and Michigan Public Service Commission Order, Consumers filed an application for authority to reconcile gas revenue pursuant to its Pilot Revenue Decoupling Mechanism. In its application, Consumers requested approval of its PRDM reconciliation and approval of its requested recovery of \$15,650,182, plus interest, in additional revenue.

Administrative Law Judge Theresa A. Sheets (ALJ Sheets) held a pretrial conference on January 10, 2012, at which time she granted petitions to intervene filed by the Association of Businesses Advocating Tariff Equity (ABATE) and Attorney General Bill Schuette (AG). The Commission Staff (Staff) also participated in the proceedings.

An evidentiary hearing was conducted before ALJ Sheets on April 23, 2012. The testimony and exhibits of the parties were bound into the record without cross-examination. Consumers presented the testimony of Thomas A. Yehl and Theodore A. Ykimoff, ABATE presented the testimony of James T. Selecky, the AG presented the testimony of Sebastian Coppola, and Staff presented the testimony of Mark J. Pung. The record consists of 104 pages of transcript and 21 exhibits. All of the parties filed initial briefs on May 17, 2012, and reply briefs on May 31, 2012.

### III.

#### **TESTIMONY AND POSITIONS OF THE PARTIES**

##### A. Consumer's Position

Consumers asserts that its decoupling reconciliation calculation and methodology conforms with the Commission's Orders in U-15986 and U-16418.

##### 1. Decoupling Calculation Methodology

The Company's first witness, Thomas A. Yehl, Principal Rate Analyst in the Rates and Regulation Department of Consumers (Cost and Pricing section), presented testimony in support of the Company's decoupling calculation. Mr. Yehl sponsored Exhibits A-1 through A-5. Mr. Yehl testified that he calculated the amount of decoupling revenue during the period June 1, 2010, through May 31, 2010, as follows:

First, I obtained sales volumes by rate schedule from the Company's records. The actual sales were weather normalized using the methodology consistent with that used in the Company's general rate case, and the weather normalized sales were totaled for each customer rate class. I then calculated the annual average use per customer for each rate class, including Residential, General Service and Transportation, by dividing the weather normalized sales per customer class by the average number of customers for each class as reported in the Company's billing system. Next I compared the annual average use per customer for each of these rate classes with the average annual use per customer in each of these rate classes as established by the Commission in the Company's general rate cases (U-15986 and U-16418) and determined the difference. The sales per customer variance was multiplied by the distribution rate for each respective rate class as approved by the Commission in the Company's gas rate case for each relevant period. This amount was multiplied by the actual average monthly number of customers for each rate class to derive the revenue deficiency or sufficiency for each respective class.

2 TR 20.

As a result of his calculations, Mr. Yehl determined that the Residential rate class was deficient by \$6.349 million, the General Service rate class was deficient by \$7.105 million, and the Transportation rate class was deficient by \$2.196 million. 2 TR 20-21; Exhibit A-3, p 1. Thus, the total amount of the decoupling revenue deficiency for the period is \$15.650 million. 2 TR 21; Exhibit A-3, p 1.

2. Recovery of Decoupled Revenue

Mr. Yehl testified that the Company proposes to recover the decoupled revenue from each rate class by collecting the amount of decoupled revenue calculated for each rate class as set forth above, plus the Company's short-term interest rate over a prospective 12-month period. 2 TR 21; Exhibit A-3; Exhibit A-4. Mr. Yehl testified that the deficient amounts for each rate class, as set forth on Exhibit A-3, are carried to Exhibit A-4, p 2 of 2, column (c), where the PRDM Charge is calculated using the Company's short-term interest rate over a prospective 12-month period.<sup>3</sup> *Id.* This results in \$6.354 million, including interest, being collected from Residential customers, \$7.110 million, including interest, being collected from General Service customers, and \$2.198 million, including interest, being collected from Transportation customers. *Id.*; Exhibit A-4, p 1 of 2, column (b).

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<sup>3</sup> The PRDM charge calculated for each rate class is also shown on the proposed tariff sheet found in Exhibit A-5. The Residential PRDM charge is \$0.2425, the General Service PRDM charge is \$0.1123, and the Transportation PRDM charge is \$0.0346. See Exhibit A-4 and A-5.

3. PRDM Contingency: Quarterly Filings

Mr. Yehl also presented testimony regarding the Company's fulfillment of the reporting contingency the Commission established in order for Consumers to continue the decoupling mechanism. Specifically, he testified that the Commission directed the Company to file actual sales data information by rate, on a quarterly basis, and to comply with any other reporting requirements as directed by the MPSC Staff. 2 TR 22. He testified that the Company filed quarterly sales reports by rate schedule in Case No. U-15986. 2 TR 23. According to Mr. Yehl, the Company filed reports on October 1, 2010; December 8, 2010; April 5, 2011; and June 28, 2011. *Id.* Revisions to the October 1 and December 8 reports were filed with the April 5 report. *Id.* Finally, Mr. Yehl testified that Staff requested no additional information pertaining to the decoupling mechanism. *Id.*

4. PRDM Contingencies: EO Performance Benchmark and Enhanced Energy Efficiency Resources

The Company's second witness, Theodore A. Ykimoff, Senior Energy Efficiency Planning Analyst, presented testimony regarding the Company's accomplishment of the energy optimization (EO) performance benchmarks established pursuant to Public Act (PA) 295 of 2008, and the Company's commitment to providing enhanced energy efficiency resources enabling all customer classes to effectively manage rising energy costs. 2 TR 42. These are the two remaining contingencies the Commission established in order for Consumers to continue the decoupling mechanism.

Mr. Ykimoff testified that, for 2009 and 2010, Consumers exceeded the gas performance benchmark, and it projected that it would exceed the gas performance benchmark for 2011 as well. 2 TR 42-43. He further testified that Consumers achieved its gas savings within the statutory spending cap for 2009 and 2010. 2 TR 43. As for 2011 gas savings, Mr. Ykimoff testified that in Case No. U-16412, the Company filed an amended EO plan which projected its 2011 gas spending to be \$48,589,018. 2 TR 44. He explained that while the projected spending level is above the statutory spending cap of \$38,533,169, it is not above the \$56,352,567 collections cap, which is an amount up to which the Company can spend given Commission approval. 2 TR 44. Mr. Ykimoff also testified that for 2009 and 2010, the Company's portfolio of gas EO programs achieved the statutory requirement of a benefit/cost ratio greater than 1.0 as calculated by the utility system resource cost test. 2 TR 42-43. Consumers projects that its portfolio of gas EO programs will achieve the statutory requirements of a benefit/cost ratio of greater than 1.0 as calculated by the utility system resource cost test in 2011. 2 TR 44.

Finally, Mr. Ykimoff testified that Consumers fulfilled its final prerequisite to the continuation of the decoupling mechanism by providing enhanced energy efficiency programs and demand-side resources that enable all customer classes to effectively manage rising energy costs. 2 TR 44. He noted that, as approved in Case No. U-16412, the Company's 2011-2014 Amended Energy Optimization Plan, the Company committed to invest an additional \$21,015,024 in gas energy efficiency programs over and above the planned \$208,564,555 energy efficiency



investment approved in Case Nos. U-15805/U-15889. *Id.* Mr. Ykimoff also indicated that the Company recently filed its 2012-2015 Amended Energy Optimization Plan, Case No. U-16670, which includes “a robust offering of programs available to all customer classes that continues to enable them to effectively manage their energy costs.” *Id.*

B. ABATE’s Position

James T. Selecky, Managing Principal of Brubaker & Associates, Inc., an energy, economic and regulatory consultant, testified in support of ABATE’s opposition to the Company’s reconciliation methodology and result. Mr. Selecky sponsored Exhibits AB-1 and AB-2 in support of his testimony.

1. Revenues Exceed Level Authorized in Rate Case

Mr. Selecky testified that Consumers has seen an increase in the revenues from its Transportation customers from the level authorized in the rate case, and still wants to collect additional revenues from the same customers. 2 TR 51. He argues that the Test Year Baseline for the Transportation rate class was 54,150,260 Mcf and the Weather Normalized (Actual) Sales were 63,914,021 Mcf, or a 9.764 million Mcf increase in Transportation sales. 2 TR 50-51. According to Mr. Selecky, this results in \$5.917 million in additional revenue from the Transportation class above the level authorized in the rate cases. 2 TR 51.

2. Proposed Decoupling Calculation Does Not Comport with Intent of the Commission Order

Mr. Selecky went on to testify that the Company’s decoupling proposal does not comply with the Commission’s intent or reason for establishing a pilot

program. He cited Opinion and Order dated January 11, 2010, in Case No. U-15678 in support ABATE's position. 2 TR 51. In part, that Opinion and Order states:

A decoupling mechanism is typically created to remove the disincentive to the utility to having its customers be more efficient. Decoupling seeks to align the utility's interests with those of its customers, thereby allowing the full potential of energy conservation efforts to be achieved.

The principal purpose of decoupling is to transform the current regulatory paradigm that gives a utility a strong incentive to sell as much electricity as possible, without regard to the negative effects upon overall costs and individual customer bills.

2 TR 51; U-15678 Order, pp 65-66.

Mr. Selecky took the position that requiring Transportation customers to pay more when the Transportation class volumes are above rate case levels is inconsistent with this intent.

a. Transportation Customers Due a Refund

Mr. Selecky argued that Consumers is seeking to collect additional revenues from the Transportation class when the revenues from this class have increased from the level established in the last rate case. 2 TR 51. He testified that "Consumers has not demonstrated that because of the mandated energy efficiency programs it is not receiving revenues from the Transportation customers less than the level authorized by the Commission." 2 TR 52. Thus, Mr. Selecky took the position that Consumers' Transportation revenues have increased, and the Transportation customers are due a refund as opposed to Consumers' proposed surcharge. *Id.*

b. Proposed Calculation Does Not Reconcile the Non-GCR Revenues Determined in a Rate Case with the Actual Non-GCR Revenue

Mr. Selecky agreed that the U-15986 Order indicates that the adjusted sales per customer by class during the 12 month period from June 1, 2010, through May 31, 2011, should be compared with the base sales per customer amounts established in this case. 2 TR 52. He testified, however, that Consumers ignored another portion of that same order that requires the decoupling mechanism to reconcile the non-GCR revenue that is projected in a rate case with the actual non-GCR revenue. 2 TR 52-53. He argued that under Consumers' methodology, Consumers has received an increase in Transportation revenues above the level established in the rate case and now requests additional revenues associated with the decoupling mechanism RDM. 2 TR 53. Mr. Selecky maintained that such a methodology is unjust and unreasonable for the Transportation rate class.

c. Proposed Exclusion of Transportation Customers From PRDM

To develop any PRDM, Mr. Selecky recommended the utilization of the calculation set forth in Exhibit AB-1, which demonstrates an increase in revenues for Consumers. 2 TR 54. He suggested that Transportation customers would see a credit because their total revenues during the weather normalized period exceed the test year baseline period. *Id.* Alternatively, he suggested that Transportation customers be excluded from the RDM. *Id.* He argued that Transportation customers' sales volumes are closely tied to economic conditions

and as a result the sales can fluctuate significantly annually, producing absurd results. *Id.*

Mr. Selecky asserted that including customer-related revenue in the development of decoupling revenue will provide revenue shortfalls for the Residential and General Service classes of \$2.936 million and \$7.71 million, respectively. 2 TR 55. It will, however, result in a surplus for the Transportation class of \$5.917 million. *Id.*; Exhibit AB-1; Exhibit AB-2.

C. AG's Position

Sebastian Coppola, independent business consultant specializing in financial and strategic business issues in the fields of energy, utility regulation, manufacturing and service industries, presented testimony on behalf of the AG. Mr. Coppola sponsored Exhibits AG-1 through AG-5 in support of his testimony.

1. Calculation of Surcharge Rate and Interest Amount Used by Company are Incorrect

The first issue addressed by Mr. Coppola was Consumers' calculation of revenue shortfall. Mr. Coppola began by saying that he agreed with Consumers' calculation of \$15,650,182 in revenue shortfall. 2 TR 66. Mr. Coppola, however, disagreed with the calculation of the surcharge rate and the interest amount proposed by the Company. *Id.*

a. Company Should Use Actual Weather Normalization Gas Sales and Transportation Volumes for PRDM Reconciliation Instead of Forecasted Sales and Transportation Volumes

Mr. Coppola disagreed with the Company's use of the volumes from its rate case filings to calculate the surcharge rate and interest amount to recover the revenue shortfall. 2 TR 66-67. He testified that the forecasted sales and

transportation volumes proposed by the Company are lower than historical levels and considerably understate future sales. 2 TR 67. He said that this, in turn, has the effect of increasing the surcharge rate for each of the rate classes. *Id.* He argued that a higher surcharge rate when applied to higher future actual sales and transportation gas deliveries will result in an over-recovery of the PRDM revenue shortfall. *Id.* To avoid potential over-recovery, Mr. Coppola recommended that the Commission approve the use of the actual weather normalized gas sales and transportation volumes for the PRDM reconciliation period of June 2010 to May 2011. 2 TR 68. Mr. Coppola testified that he did not interpret the U-15986 Order as requiring the Company to use a forward period sales forecast. *Id.* Instead, he interpreted the language as directing the Company to use the billing determinants for the 12 months reconciliation period, which is from June 2010 to 2011. *Id.* He testified that since weather had an impact on the volumes for this actual period, it is appropriate to weather normalize the volumes in using them as a proxy for a future period. *Id.*

Mr. Coppola ultimately recommended the surcharge rates for each rate class as set forth in Exhibit AG-3. He set up the following chart demonstrating the variation between the Company's proposed surcharge rates and the AG's proposed surcharge rates:

	<u>CECo</u>	<u>AG</u>
Residential Class	\$.0425	\$.0399
General Service Class	\$.1123	\$.1110
Transportation Class	\$.0346	\$.0344

2 TR 69.

Mr. Coppola testified that the small difference in interest costs between his calculation and that of the Company is the result of the difference in the monthly forecast. *Id.*

2. Suggested Modifications to PRDM

Mr. Coppola spent the remainder of his testimony on four (4) suggestions for improving the revenue decoupling mechanism, saying that in the “order approving the PRDM, the Commission invited parties to file comments or proposals on adjustments and evaluations of the pilot.” 2 TR 70. In his testimony, Mr. Coppola recommended the Commission consider terminating the PRDM in conjunction with an order in this case or in the Company’s next general rate case. *Id.* In the alternative, Mr. Coppola suggested that if the Commission continue the RDM for the Company, that it take one or more of the following actions to limit the RDM currently in place:

- a. Limiting application of the RDM to only the Residential Class and excluding General Service and Transportation classes. (See 2 TR 75-76; Exhibit AG-4).
- b. Suspension of the RDM during self-implementation of rate increases. (See 2 TR 76-77).
- c. Limitation of annual reconciliations. (See 2 TR 77-78).
- d. ROE adjustments for business risk reduction. (See 2 TR 78-80; Exhibit AG-5).

D. Staff's Testimony

Mark J. Pung, Department Analyst for the Michigan Public Service Commission Rates and Tariff Section of the Regulated Energy Division, presented testimony in support of Staff's recommended methodology for the PRDM reconciliation. Mr. Pung sponsored Exhibits S-1 through S-4 in support of his testimony.

Mr. Pung testified that he proposed using actual revenue shortfalls to calculate the PRDM surcharge. 2 TR 93. He also proposed to calculate the PRDM at the rate schedule level whether the Company's Average per Customer Method is approved, or Staff's preferred Actual Exposure method is approved by the Commission for calculating the PRDM. *Id.*

1. Calculation Should be Made Using Actual Exposure Method

According to Mr. Pung, the Company has proposed to calculate the PRDM at the rate class level using the Average per Customer Method. 2 TR 94. He testified that this method takes the difference in average use per customer between the approved test year determinants and the weather normalized actual levels and multiplies it by the actual customers and then the approved rates during the test year to come up with the increase or decrease needed in revenues. *Id.* He testified, however, that calculating the PRDM using the Average per Customer Method creates arbitrary results unrelated to the way in which the Company actually collects revenue, which is made worse by

calculating the average use per customer at the class level as opposed to the rate schedule level. *Id.* To alleviate this, Staff proposed to calculate the PRDM at the rate schedule level using the Actual Exposure Method. *Id.* Mr. Pung stated that the Actual Exposure Method “takes the difference between the approved test year sales and weather normalized actual levels and multiplies it by the approved rates during the test year to come up with the increase or decrease needed in revenues. *Id.* He asserted that the Actual Exposure Method reflects the way in which the Company designs rates and collects revenue. 2 TR 94-95.

2. All Calculation Should be Made at the Rate Schedule Level

Mr. Pung also testified that the PRDM should be calculated at the rate schedule level regardless of whether the Average per Customer Method or the Actual Exposure Method is used. 2 TR 95. According to Mr. Pung, Staff proposed to calculate the PRDM at the rate schedule level because there is a large variance in usage characteristics between rates schedules within the customer classes. *Id.* He argued that this large difference in usage characteristics distorts the results of the calculation and overstates the variance in revenue that the Company actually realized. *Id.*; Exhibit S-4; Exhibit S-3. He noted that not only does combining the rate schedules distort the impact on customers, it also distorts the revenue lost or gained by the Company. 2 TR 95-96. Mr. Pung pointed out that rates are calculated at the rate schedule level in standard rate cases for both electric and natural gas because it is the correct way



to reflect cost causation. 2 TR 96. Thus, he argued, the Commission should require the PRDM calculation be done at the rate schedule level as well. *Id.*

Mr. Pung further testified that it was the position of Staff that conducting calculations for this reconciliation on the basis of rate schedule is consistent with the Commission Order authorizing the PRDM. *Id.* He points to the U-15986 Order, p 52 which states:

The pilot decoupling mechanism shall be symmetrical, shall reconcile non-GCR revenue, and shall be applied separately by customer class.

*Id.*

Mr. Pung testified that Staff's method does apply the decoupling mechanism by class but also goes a step further and separately applies the decoupling mechanism by rate schedule within each class. *Id.* He argued that by separately applying the mechanism to the rates within each class, Staff's methodology better protects rate payers and better reflects the revenue gained or lost by the utility due to sales changes. *Id.* In support of going that one step further and applying the decoupling mechanism by rate schedule within each class, Staff, like the AG, relied on language contained in the U-15986 Order, p 53, which provides:

In future proceedings, the Commission will examine, and may seek comments from parties, on the success of the pilot in facilitating utility provisions of increased energy efficiency programs and recommendations for adjustment and evaluation of the pilot.

2 TR 96.

As Mr. Pung stated in his testimony, Staff takes the position that, “[b]ased on the quoted language, Staff applied the mechanism to rate schedules, which are the most appropriate customer groups as described above and is consistent with the rate case process.” 2 TR 96-97. Using the Actual Exposure Method for calculating the PRDM, Mr. Pung testified that the impact on customers is an under collection of \$3.62 million, a reduction of \$12.03 million from the Company’s proposed under collection. 2 TR 97.

In the alternative, Staff provided a proposed recalculation of the Company’s Average per Customer Method at the rate schedule level. *Id.* Exhibit S-4. Mr. Pung testified that in the event the Commission finds the Company’s Average per Customer Method appropriate, Staff recommends that the Commission require the PRDM be calculated at the rate schedule level. *Id.* This would result in a proposed \$9.39 million under-collection, a reduction of \$6.26 million from the Company’s proposed APC Method calculated at the rate class level. *Id.*

2. Interest and Surcharges for PRDM Should be Calculated at the Rate Schedule Level

Like the PRDM calculation, Mr. Pung testified that Staff recommends the Commission require the Company to re-calculate interest and surcharges for the PRDM at the rate schedule level, regardless of what methodology is approved for calculating the PRDM. 2 TR 98. Staff did not include interest or surcharges in its final calculation because, as Mr. Pung testified, it did not have a sales forecast by month and by rate schedule to complete the calculation. *Id.* Staff recommended

that the Commission direct the Company to use a sales forecast by rate schedule to complete the calculation of interest and surcharges for the final PRDM. *Id.*

3. Calculation of Residual Balance

Finally, Mr. Pung testified that Staff recommends applying the use of a certain methodology for any residual amounts that remain after the initial PRDM calculation. Mr. Pung testified that Staff wants the Company to implement subsequent refunds or collections until each rate schedule's residual amount is at or below the rate schedule's specific residual limit. *Id.* Mr. Pung explained that the residual limit is an amount that the residual must be reduced to before the Company can cease its attempts to complete the PRDM. *Id.* According to Mr. Pung, the residual limit is based on the smallest rate that the Company can charge a customer and is done in two steps and differs between residential and non-residential customers. *Id.* He testified,

The first step is based on usage. The Company shall refund to a residual balance of plus or minus a set range based on a per Mcf positive or negative surcharge. The second step is based on customer counts. The Company shall refund based on the number of customers down to \$.01 per customer to reach the residual limit. The Company should continue collecting or refunding money from customers until it reaches its residual limit. Prior to each adjustment, the Company should submit a tariff sheet reflecting the new PRDM rates it plans to implement for each rate schedule. Once the residual is reduced to the set limit for a given rate schedule, the Company may cease its residual for that rate schedule.

2 TR 98-99.

Mr. Pung then went on to testify as to the residual limits for Rate Schedules A and A-1, GS-1, GS-2, GS-3, ST, LT, and XLT. 2 TR 99-102. Mr.

Pung testified that this methodology ensures resolution of residual amounts that are the result of calculating rates from projected sales. 2 TR 102. He indicated that Staff recommends this methodology be adopted because the expenses associated with carrying over relatively small amounts outweigh the benefits associated with reconciling these minimal amounts. *Id.* He went on to say that this methodology will allow collections to be made or refunds to be provided regardless of whether the Company has any tracker in place. *Id.* Mr. Pung noted that after the residual balances are reduced to an amount within the residual limits, the Company may retain them. *Id.*

E. Company's Rebuttal

Thomas A. Yehl presented rebuttal testimony on behalf of Consumers and sponsored Exhibit A-6 in support of his rebuttal testimony.

1. Average Use Per Customer (Not Actual Exposure) is the Proper Decoupling Method

On rebuttal, Mr. Yehl testified that Staff's position is not based on the decoupling mechanism that was adopted by the Commission in its U-15986 Order. 2 TR 27. He argued that the approved mechanism was "based on determining the average use per customer by customer class and comparing that to the corresponding average use per customer that was used to establish rates in the most recently approved rate case." *Id.* Mr. Yehl cited the Commission order which he asserts, "clearly specifies that the calculations 'shall be applied separately by customer class.'" 2 TR 28.

In support of his position, Mr. Yehl sponsored Exhibit A-6. Mr. Yehl testified that Exhibit A-6 was an exhibit in Case No. U-15986 (as Exhibit A-53),

and is the very decoupling mechanism approved by the Commission, with modifications being made only to calculations using weather normalized sales rather than actual sales. *Id.* Additionally, he argued that the PRDM was developed based on the gas rate classes as filed and approved in rate case U-15986 for cost of service and rate design purposes. *Id.*

Mr. Yehl testified that Staff did not contend in its direct testimony that the Company's calculations were not made in accordance with the method approved by the Commission. 2 TR 30. Further, he noted that Staff's testimony does not allege that there are any material errors in the reconciliation calculation that the Company presented in its direct case. *Id.*

Mr. Yehl created the following summary of the Company's position regarding methodology versus the Staff's.

<b>Exhibit</b>	<b>Decoupling Method</b>	<b>Customer Grouping</b>	<b>Non-fuel rate proration start date</b>	<b>Revenue Under (Over) Collection</b>
Company Exhibit A-3 (TAY-3)	Average Use per Customer	Customer Class	U-15986 06/01/10 to 05/26/11  U-16418 05/27/11 to 05/31/11	\$15.650M
MPSC Staff S-3	Actual Exposure Method	Rate Schedule	U-15986 06/01/10 to 05/26/11  U-16418 05/27/11 to 05/31/11	\$3.565M
MPSC Staff S-4	Average Use per Customer	Rate Schedule	U-15986 06/01/10 to 05/26/11  U-16418 05/27/11 to 05/31/11	\$9.341M

2 TR 30.

Mr. Yehl testified that the Actual Exposure Method suggested by Staff (as set forth in Exhibit S-3), is different from the PRDM adopted by the Commission because, (1) the PRDM adopted by the Commission specifically requires that the calculation be based on the average per customer methodology, not actual exposure methodology, and (2) it requires the average use per customer be determined for each of the rate classes and not rate schedules. 2 TR 31. Mr. Yehl went on to say that the Commission could have adopted Staff's suggested methodology in Case No. U-15986, but did not do so. *Id.* Mr. Yehl went further to say that a similar Actual Exposure Method was proposed by Staff in U-15986 but rejected by the Commission. 2 TR 32.

2. Customers Should be Grouped by Customer Class and Not By Rate Schedule

Similarly, according to Mr. Yehl, the Average Use Methodology suggested by Staff (average use per customer by rate schedule as set forth in Exhibit A-4) is not consistent with the PRDM adopted in U-15986 because the PRDM approved specifically groups customers by customer class and not by rate schedule. 2 TR 33.

Finally, Mr. Yehl rejected Staff's proposed Residual Balance Mechanism and argued that the Residual Balance Mechanism approved in Case No. U-16759 should be used in these proceedings. According to Mr. Yehl, the Order in that case required the Residual Balance Method set forth therein "to be used in future gas and electric cases," and be utilized to address any residual balances that may result from over- or under-collections of the amount of decoupling

revenue that the Commission authorizes to be collected from customers in this case. 2 TR 34.

3. Determination of Surcharges and Interest Should Be Calculated Using Residual Balance Mechanism Approved in U-16759

In response to Mr. Coppola's testimony, Mr. Yehl testified that he does not agree with Mr. Coppola's suggestion that the Commission approve the use of historic weather normalized gas sales and transportation volumes to determine the surcharges. 2 TR 36. He argued that the Company's approach is superior because its forecast takes into account other factors that influence sales such as changes in efficiency and economic projections, and is more accurate and more likely to minimize any residual balances. *Id.* He again reiterated that the Company proposes the use of the Residual Balance Mechanism that was approved in Case No. U-16759 for collection of any residual balances. *Id.*

4. Modification of PRDM is Not Appropriate in Reconciliation Case

In response to Mr. Coppola's suggestions for modifications to the gas decoupling mechanism, Mr. Yehl argued that it is not necessary or even appropriate to discuss prospective changes to the PRDM in a reconciliation case. *Id.* He noted that this is an issue that is being routinely addressed in general rate cases and that is a proper forum for making prospective adjustments to the decoupling mechanism. *Id.*

Mr. Yehl expressed objections to Mr. Selecky's testimony that are similar to his objections to the testimony of Mr. Coppola and Mr. Pung contending proposed calculations inconsistent with approved PRDM and adoption of

changes to the PRDM in a reconciliation case are unnecessary and inappropriate. 2 TR 37-38.

#### IV

#### **DISCUSSION AND FINDINGS**

In its U-15986 Order, the Commission found that the “decoupling mechanism proposed by Consumers is reasonable and prudent and should be adopted” with certain modifications. U-15986 Order, p 50. The Commission went on to find the following:

1. that the decoupling true-up should be based on 15-year weather normalization sales rather than the actual sales;
2. that the establishment of the PRDM is contingent upon (a) the utility meeting certain reporting requirements (quarterly reporting of actual sales data information by rate class and any other reporting requirements as directed by Staff), (b) exceeding the benchmark for the energy optimization program established pursuant to Act 295, and (c) committing to provide enhanced energy efficiency programs and demand side resources that enable all customer classes to effectively manage rising energy costs, including proposals to accomplish this in the next filed rate case;
3. that the PRDM shall be symmetrical, shall reconcile non-GCR revenue, and shall be applied separately by customer class;
4. that in the utility’s annual PRDM reconciliation proceeding, which shall be filed on or before September 1 of each year, Consumers’ weather adjusted sales per customer by class during the 12-month period from June 1 to May 31 will be compared with the base sales per customer amount established in this case;
5. that any sales per customer difference will be multiplied by the distribution charge per Mcf to obtain the non-GCR revenue difference per customer. This amount will be multiplied by the actual average monthly number of customers during the reconciliation period, as determined in



the reconciliation proceeding, in order to obtain the total amount for refund or surcharge;

6. that an overage or shortfall shall be credited or surcharged to customers in that rate class on a per Mcf basis calculated using the billing determinants for the 12-month period covered by the reconciliation until the refund or surcharge is recovered;
7. that the Company's annual decoupling mechanism reconciliation proceeding shall be conducted as a contested case and should be focused on the revenue difference and the calculation of the resulting charges or credits; and
8. that in each annual decoupling reconciliation case, Consumers shall provide data based on its average per customer sales levels by rate class.

U-15986 Order, pp 52-54.

The Commission noted that in future proceedings, the Commission will examine, and may seek comments from parties, on the success of the pilot in facilitating utility provision of increased energy efficiency programs and recommendations for adjustments and evaluation of the pilot. U-15986 Order, p 53. The Commission also stated that in the event Consumers has filed a new rate case and self-implemented new rates in the 12-month period, it shall include a very detailed proposal with specific explanation as to how self-implementation fits with the decoupling mechanism and proposed reconciliation. U-15986 Order, pp 53-54.

In this case, there appears to be three primary disputes relating to the calculation and modification of the PRDM. The first involves the proper method to be used in the decoupling reconciliation, the second involves the residual

balance mechanism to be used, and the third involves whether or not modifications to the PRDM are appropriate in this reconciliation.

A. Decoupling Calculation Methodology

1. Average Use Per Customer Method/Actual Expenditure Method

In the Company's proposed reconciliation, it utilizes the Average per Customer Method to determine the amount of decoupling revenue during the period June 1, 2010 through May 31, 2011. In testimony, the AG concurs in the decoupling calculation methodology employed by the Company in this reconciliation, with the exception of the calculation of revenue shortfall surcharge and interest, which will be address below. Staff and ABATE object to the Company's use of the Average per Customer Method. Staff argues that the Actual Exposure Methodology is more appropriate and ABATE argues that the Commission should apply a PRDM that is essentially a total revenue tracking mechanism.

The U-15986 Order provides,

In the utilities annual decoupling mechanism reconciliation proceeding . . . Consumers' weather adjusted *sales per customer* by class during the 12-month period from June 1 to May 31 will be compared with the *base sales per customer* amount established in this case. Any *sales per customer* difference will be multiplied by the distribution charge per Mcf to obtain the non-GCR revenue difference per customer. (Emphasis added).

U-15986 Order, pp 52-54.

The language of the Commission's Opinion and Order specifically references a "per customer" methodology be used for decoupling mechanism reconciliation proceedings.

Rather than address a calculation based on a per customer methodology, Staff relies on other language contained the U-15986 Order in support of the use of an Actual Exposure Methodology. Staff's Initial Brief, p 3. The language from the U-15986 Order relied on by Staff is:

In future proceedings, the Commission will examine, and may seek comments from parties, on the success of the pilot in facilitating utility provision of increased energy efficiency programs and recommendations for adjustment and evaluation of the pilot.

U-15986 Order, p 53.

Staff interprets this language as support for its position that this reconciliation proceeding is an appropriate venue to examine and evaluate further modifications to Consumers' PRDM. Thus, Staff does not address the accuracy of Consumers' calculations. Instead, Staff recommends the Actual Exposure Method be utilized for this reconciliation, and presented its calculations based on that method. Staff argues that the Actual Exposure Method is superior to the average use per customer methodology and, thus, its testimony and briefs address primarily the use of the Actual Exposure methodology which results in a \$3,620,265 under-collection.

ABATE addresses the use of a methodology which focuses the revenues generated by the Transportation class. 2 TR 51; ABATE's Initial Brief, p 2. ABATE's witness, Mr. Selecky, testified that the methodology utilized by Consumers ignored another portion of the Commission's U-15986 Order which requires the decoupling mechanism to reconcile the non-GCR revenue that is determined in a rate case with the actual non-GCR revenue. 2 TR 52-53; ABATE Initial Brief, p 2. He argues that Consumers' methodology creates an

increase in Transportation revenues above the level established in the rate case. 2 TR 53. Mr. Selecky asserts that including customer-related revenue in the development of decoupling revenue will result in a surplus for the Transportation class of \$5.917 million. 2 TR 55; Exhibit AB-1, Exhibit AB-2; ABATE Initial Brief, p 2. ABATE requests a credit for the Transportation customers or that Transportation customers be excluded from the RDM. 2 TR 54. In ABATE's Reply Brief, however, it represents that its position is "almost identical to the Staff, with a slight variance in the refund amount." ABATE Reply Brief, p 1. ABATE continues by saying that "ABATE has no objection to the use of the Actual Exposure Method as depicted in Staff's Exhibit S-3, for all classes." *Id.*

In response to Staff's proposed PRDM calculation, the Company notes that Staff submitted an alternative calculation in Exhibit S-4 in these proceedings, "[i]n apparent recognition of the fact that the Exhibit S-3 method is inconsistent with the Commission's Order in Case No. U-15986." Consumers' Initial Brief, p 12. Consumers points out that Staff's Exhibit S-4 presents its alternative calculation based on the Average per Customer method. *Id.* The variations in Staff's calculations, set forth in Exhibit S-4, relate to application of the PRDM by rate schedule rather than customer class, as proposed by Consumers. Consumers' Initial Brief, p 13. That issue will be discussed separately below.

Consumers further argues that Staff's proposed calculation, as set forth in Exhibit S-3, is similar to that proposed in Case No. U-15986. Consumers' Initial Brief, p 11. Consumers submits that the Commission specifically rejected this proposal, stating that, "[a]fter giving careful consideration to the various RDMs

proposed by the parties, the Commission finds that the decoupling mechanism proposed by Consumers is reasonable and prudent and should be adopted,” with the modifications that weather adjusted sales should be used instead of actual sales. *Id.*; See also U-15986 Order, pp 50-52.

Finally, Consumers makes the point that the Commission should apply the PRDM that was actually adopted in Case No. U-15986 and which was extended in Case No. U-16418. Consumers’ Reply Brief, p; 2 and 7. Consumers argues that a general gas rate case is the appropriate forum for dealing with termination or modification of the PRDM and that annual reconciliations should be restricted to simply applying whatever decoupling mechanism is in effect. Consumers Reply Brief, p 2. In support of this position, Consumers points to the U-15986 Order (page 53), in which the Commission states, “[t]he Company’s annual decoupling mechanism reconciliation proceeding shall be conducted as a contested case and *should be focused on the revenue difference and the calculation of the resulting charges or credits.*” (Emphasis added). *Id.*

This ALJ is not persuaded by the arguments of Staff and ABATE as it relates to the methodology to be utilized in this reconciliation. This ALJ does not interpret the Commission’s language in its U-15986 Order, which references examination and recommendations for adjustment and evaluation of the pilot in “future proceeding,” as a proceeding relating to reconciliation. Rather, this ALJ interprets that language in a manner consistent with the position of Consumers, and finds that issues relating to modification, termination or continuation of the PRDM are better suited to a general gas rate case. This ALJ agrees that the

Commission Order in U-15986 specifically requires this reconciliation to be based on the Average per Customer methodology and that methodology was properly applied by Consumers.

2. Customer Class Basis/Rate Schedule Basis

A second component in the PRDM calculation is whether the calculation should be performed on a customer class basis or a rate schedule basis. In Consumers' proposed reconciliation, it applied the PRDM separately by customer class. The AG concurs in this part of the calculation. Staff, however, objects to the calculation on a customer class basis and maintains that the appropriate customer groups that should be used in the PRDM reconciliation are individual rate schedules. Staff Initial Brief, p 5. Staff emphasizes that even if the Commission finds that Consumers' use of the Average per Customer Methodology is appropriate, it should perform the calculation based on individual rate schedules and not customer class. Staff's Initial Brief, pp 7-8.

In the Commission's U-15986 Order, it stated that the pilot decoupling mechanism "shall be applied separately by customer class." Order, p 52. Staff does not dispute the testimony of Mr. Yehl in which he asserts that "the approved PRDM in Case No. U-15986 specifically groups customers by customer class (Residential, General Service, and Transportation), not by rate schedule." 2 TR 33; Consumers' Initial Brief. In fact, Mr. Pung testified that the use of groups by rate schedule "does apply the decoupling mechanism by class but also *goes a step further and separately applies the decoupling mechanism by rate schedule within each class.*" (Emphasis added). 2 TR 96; Staff's Initial Brief, p 6.

This ALJ declines to expand on the method specifically articulated in the Commission's Order in U-15986. Although Staff cites language from MCL 460.1089(6) which says that "[t]he commission may approve an alternative mechanism if the commission determines that the alternative mechanism is reasonable and prudent," this ALJ agrees with Consumers that this language does not apply to reconciliations. Further, the language in that same order which states, "[t]he pilot decoupling mechanism shall be symmetrical, shall reconcile non-GCR revenue, and *shall be applied separately by customer class*" directs the use of customer class in applying the decoupling mechanism. This ALJ finds that had the Commission wished to apply the decoupling mechanism by rate schedule, it would have done so. Because it did not, this ALJ is unwilling to expand the plain language of the decoupling mechanism as articulated by previous Commission order. Further, for the same reasons set forth above, this ALJ finds that allowing the application of the decoupling mechanism by rate schedule would be a modification of the PRDM, which is inappropriate in reconciliation proceeding and more appropriate for a general rate case.

B. Refund Mechanism

The second issue in this proceeding involves residual balances. In its Initial Brief, Consumers argues that the manner in which residual balances are handled was resolved in a Settlement Agreement and Order of the Commission in U-16759. In the Commission's final order in that case, a Residual Balance Mechanism was established to complete any collection or refund in that case. December 20, 2011 Order in U-16759, p 2-4. In that Order, the parties

specifically agreed, “the Residual Balance Mechanism described above is intended to be used in future gas and electric cases (excluding gas cost recovery and power supply cost recovery proceedings) as the method to complete any collection or refund of Commission approved positive or negative surcharges.” U-16759 Order, p 3. This mechanism was approved by the Commission in that Order. Thus, the Company argues that the Commission has already adopted a method for dealing with the residual balances for “future gas and electric cases,” and that is the method that should be used in this case. Consumers’ Initial Brief, p 14. Further, Consumers argues that the Commission has routinely adopted the use of forecasted sales to determine the surcharges to collect or refund amounts to customers. 2 TR 36; Consumers’ Initial Brief, p 15.

Although the AG agreed with the Company’s decoupling calculation, it disagreed with the manner in which the Company calculated the surcharge and interest amount. 2 TR 66; AG’s Initial Brief, p 1. The AG asserts that the use of the actual weather normalized gas sales and transportation volumes for the PRDM reconciliation instead of the Company’s use of forecasted sales and transportation volumes. AG’s Initial Brief, pp 1-2.

While Staff acknowledged that “the Attorney General makes an important point with regard to the impact of sales forecasts on the decoupling reconciliation,” Staff recommends that the Commission use the sales supported by Staff and Consumers because those were the sales used to calculate the rate schedule charges. Staff’s Initial Brief, p 10.



Considering the language set forth in the Order in Case. No. U-16759, as set forth above, and that sales forecasts were used to calculate the rate schedule charges, this ALJ agrees with the Company and Staff and finds that the use of forecasted sales and transportation volumes to calculate surcharge and interest is more appropriate in these proceedings. Although ABATE and the AG are not in favor of this methodology, it appears that the methodology used by the Company was already approved by the Commission in Case No. U-16769 and should be used in this reconciliation.

C. Modification of PRDM

A major theme throughout these proceedings has been the AG's, Staff's and ABATE's interest in modifying the PRDM. As set forth above, the AG suggested four changes to the PRDM including: (1) limiting application of the RDM to only the Residential Class and excluding the General Service and Transportation classes, (2) suspension of the RDM during self-implementation of rate increases, (3) limitation of annual reconciliations, and (4) ROE adjustment for business risk reduction. AG's Initial Brief, pp 5-9. Staff suggested modifying the PRDM from an Average per Customer Method to the Actual Exposure Method, and calculating the PRDM on a rate schedule basis instead of a customer class basis. Staff's Initial Brief, pp 4-8. Finally, ABATE recommends that the Transportation class be permanently excluded from the PRDM. ABATE Initial Brief, p 3.

As discussed above, this ALJ finds that issues relating to modification of the PRDM are outside the scope of a reconciliation proceeding. This ALJ does

not believe that the language of the U-15986 Order contemplates modifications of the PRDM at the reconciliation level. Instead, this ALJ believes that issues regarding modification of the PRDM are better left for general rate case proceedings.

## V

### **CONCLUSION**

Based on the foregoing, this ALJ recommends that the Commission issue an order:

1. Authorizing Consumers Energy to reconcile the PRDM for the period June 1, 2010 through May 30, 2011, as described in its testimony and exhibits; and
2. Authorizing Consumers Energy to adjust its existing retail gas rates so as to recover the amount of \$15,650,182, plus interest, in additional revenue as described in its testimony and exhibits;

STATE OFFICE OF ADMINISTRATIVE  
HEARINGS AND RULES  
For the Michigan Public Service Commission

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Theresa A. Sheets  
Administrative Law Judge

November 7, 2012  
Lansing, Michigan  
drj

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

STATE OF MICHIGAN	)		
	)	SS.	Case No. U-16860
County of Ingham	)		
_____	)		

P R O O F   O F   S E R V I C E

Dichondra R. Johnson being duly sworn, deposes and says that on November 7, 2012 A.D. she served a copy of the attached Proposal for Decision via E-Mail, to the persons as shown on the attached service list.

\_\_\_\_\_  
Dichondra R. Johnson

Subscribed and sworn to before me  
this 7<sup>th</sup> day of November 2012.

\_\_\_\_\_  
Gloria Pearl Jones  
Notary Public, Ingham County, MI  
My commission expires June 5, 2016  
Acting in Eaton County

## ATTACHMENT A

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